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Town of North Reading
Massachusetts

Community Planning

MINUTES

Tuesday, June 23, 2015

Mr. Cristopher B. Hayden, Chairperson called the Tuesday, June 23, 2015 meeting of the Community Planning Commission to order at 7:30p.m. in Room 14 of the North Reading Town Hall, 235 North Street, North Reading, MA.

MEMBERS

PRESENT:

Christopher B. Hayden, Chairperson
William Bellavance, Vice Chairperson
Patricia Romeo, Clerk
Warren Pearce
Joseph Veno

STAFF

PRESENT:

Danielle McKnight, Planning Administrator
Debra Savarese, Administrative Assistant

Mr. Hayden informed all present that the meeting is being recorded.

Minutes

Mrs. Romeo moved, seconded by Mr. Bellavance and voted 5-0:

that the Community Planning Commission vote to accept the minutes of June 9, 2015 as written.

Maple Road – Discussion

Bill Smith of 2 Allston Road stated that approximately a month ago he met with the commission and there was a discussion as to whether Maple Road existed or did not exist as a way on the ground. Since then he met with the Town Administrator, Town Counsel, his counsel and the building inspector. He is now hoping to establish a couple of facts: The owner of lot 20 Maple Road would like to build a house on this property and would like to know if everyone is in agreement that this lot is grandfathered.

Mr. Hayden stated that the commission has not received this information and is not going to make that decision this evening.

Bill Smith asked if Mr. Hayden if he would be able to directly ask Jeff Blake of Kopleman and Paige a question.

Mr. Hayden stated that he would allow the direct question.

Bill Smith asked if under Chapter 40A, section 6, is 20 Maple Road classified as a separate lot exemption.

Jeff Blake stated that he was not asked to reply to this question. The facts that he was provided with from the building inspector is that this is a pre-existing, non-conforming lot. He was asked to reply to access, or be issued a building permit as of right without first going through an Access of Determination with the Planning Department. He cannot answer this question because he was not provided with information nor asked by the Town to do so.

Bill Smith read the Building Inspector's letter dated (1/29/2015) into the record.

James DeCola, Building Inspector for the Town of North Reading stated that 20 Maple Road is a buildable lot and conforms to zoning. The issue is whether it is on an accepted or unaccepted road. If it was on an accepted street a building permit would have been issued.

Mr. Hayden stated that a Determination of Access would need to be filed with the Planning Department.

Bill Smith stated that he has more evidence that Maple Road is an accepted road:

1. A letter from the B.O.S to RMLD to install six street lights on Maple Road. In his opinion the board would not have sent this letter if it was not an accepted street.
2. The town has been collecting money from the Chapter 90 funding program since 1973. Under this program you cannot submit for funding unless the road is accepted by the town.

Mr. Hayden stated that this is handled through the DPW and the commission does not have any information in regard to this.

Bill Smith stated that the owner's parents have been paying taxes on this as a potentially buildable lot. The only way that this lot will be built is if the owner sells it to him, but he does not want to sell it if it means that the commission is going to make them build a road. All they want is a building permit.

Mr. Hayden stated that if the building inspector said that there need to be a determination made, that means the commission needs to make that determination and they will not do it until an application is filed.

Bill Smith stated that in the Zoning Bylaw, under street definition and access, chapter 18, section 8 it states "unaccepted ways and safe and adequate access". Does the commission agree that that definition is part of the zoning bylaw?

Mr. Hayden stated that he believes that it is.

Bill Smith stated if it is the commission has to abide by it. Chapter 40A section 208 which was adopted in 1944 states "except as provided in 200.d and 212 and 217, neither this zoning bylaw, nor any amendment thereto shall apply to uses (road) or structures lawfully in existence or lawfully begun before the publication of the first notice of the bylaw" This lot was recorded in the Registry of Deeds in 1926, which was 18 years before the bylaw. So if the Town/planning board adopted this bylaw and street definition is part of the bylaw, the commission cannot make them rebuild the road. Also, he has a letter from Town Counsel's office from the Department of Housing and Community Development that states in Chapter 40A, section 6 "Any increase, area, frontage, width, depth requirements of zoning ordinance or bylaw shall not apply to a single lot residential use which at the time of recording or endorsement, whichever occurred first was not held in common ownership." This lot was held in separate ownership since 1918 and was recorded in 1926. "The purpose is to protect a once valid lot from being rendered unbuildable for certain residential purposes, assuming the lot meets modest requirements." All of these letters were sent to the planning department from Illana Quirk of Kopelman & Paige. She wrote "In her opinion, the recent amendments to the zoning bylaws to increase to quantitative frontage requirements may not be applied to a parcel of land that is, so called grandfathered because it

qualifies for protection under pre-existing non-conforming uses. I have provided this opinion to the Town of North Reading on many occasions. Another letter from Barbara St. Andre' of Kopelman & Paige wrote "We often asked what a single lot is. In her opinion a municipality may not adopt any zoning provisions that grant less protection to a single lot exemption, but you can apply more protection.

Mr. Hayden stated that these are the opinions, but not what was asked. He would like to have all of these letters submitted to the planning department for review.

Mr. Veno asked if Maple Road is accepted or not accepted.

Mr. Hayden stated that a portion of the road is and portion is not.

Mr. Pearce stated that some of the items are out of context. They put light poles on unaccepted streets and private properties, as a courtesy.

Bill Smith stated that there was motion made by the Board of Selectmen in 1935 that Maple Road (the northern division) was accepted. Town Counsel asked for paperwork, the planner sent the southern division of Maple Road and they are working in the Northern.

Mrs. McKnight stated that she sent both.

Jeff Blake stated that he received both maps from the planner.

Bill Smith stated an accepted or unaccepted can be a public way. A public way is defined as having vehicular traffic going over it constantly for many years. Maple Road has been used since 1926; this classifies it as a public way.

Mr. Hayden asked Bill Smith to provide the width of the street and R.O.W. in front of the proposed property with the application.

0 Tower Hill Road/Site Plan Review - cont. P.H. 8:01

Attorney Daniel Klasnick of Duval & Klasnick LLC representing Verizon Wireless stated that at the last meeting the commission asked if they would consider relocating the propane tank for Verizon Wireless's emergency back-up generator and concern for the amount of tree removal. The code requirement for a 500 gallon propane tank is a 10' spark zone, but if they were to put it next to the existing town propane tank the code would be a 25' spark zone. Hudson Design Group updated the plans to show the proposed relocation of the propane tank next to the town propane tank and what is depicted is the 25' spark zone. In order to do this the spark zone would not only include Verizon, but the existing equipment of T-Mobile and the town's equipment and all of these would need to be evaluated for compliance and potential relocation because they would be within the spark zone. Also, shown on the plan is where Hudson Design Group staked

out where the shelter and propane tank would be located and the flagged the trees that would need to be removed, which would be a total of three trees.

Mr. Hayden stated that they did a site walk before the meeting and the board is pleased with the results.

Mrs. McKnight stated that she added to the Conditional Approval the hours for access for maintenance shall be Monday through Friday, 8:00am to 7:00pm and Saturday & Sunday, 9:00am to 5:00pm with exception to emergency maintenance. Emergency access would be allowed at any time.

Mr. Veno stated that he would prefer that the hours for Monday through Friday be 8:00am to 5:00pm.

Mrs. Romeo stated that she would also prefer that the ending hour be 5:00pm.

Attorney Dan Klasnick stated that for clarification it would mean that someone from Verizon entering the site in a regular vehicle with a laptop and connecting to the equipment inside the shelter. They were hoping to have the same consideration of hours that they received for 55 Swan Pond Road.

Mr. Hayden stated that the difference between these two sites is that 0 Tower Hill Road is much closer to the abutters.

The consensus of the board is that the non-emergency hours for Monday through Friday be 8:00am to 6:00pm.

Mrs. Romeo asked what the wattage would be for the motion activated lights.

Attorney Dan Klasnick stated that they believe it is 70 or 80 watt with a shield.

Mr. Hayden closed the public hearing.

Waivers

The following waivers are granted in determining this decision in accordance with the authority designated by Section 200-46-E:

Mrs. Romeo moved, seconded by Mr. Pearce and voted 5-0:

That the Community Planning Commission vote to grant the following waivers

- a) 200-46(E)(2)(b)(4) Surveyor plan. The SPGA grants this waiver because the plans and information provided are sufficient for a thorough review of the project.

- b) 200-46(E)(2)(b)(5) and (6) Map of Other Preexistent/Approved Wireless Services Facilities. The SPGA grants this waiver because such information is not needed for a thorough review of the proposed facilities and is not readily available to the carrier from their competitors.
- c) 200-46(E)(2)(c)(3) Tree cover. The SPGA grants this waiver because additional information regarding tree cover is not needed for a thorough review of the proposed facilities. The site is a preferred location by the Town as specified in the Town-issued RFP for this project.
- d) 200-46(E)(2)(c)(8) Distances, at grade, from the wireless service facility to each building on the vicinity plan. The SPGA grants this waiver because the proposed facilities are on an existing structure as preferred by the Town.
- e) 200-46(E)(2)(c)(9) Two-foot contours. The SPGA grants this waiver because the proposed facilities are on an existing structure as preferred by the Town and the information provided is sufficient for a thorough review.
- f) 200-46(E)(2)(c)(12)[a][i] and [b] Sight line representations and siting elevations (views at grade, etc.). The SPGA grants this waiver because the proposed facilities are on an existing structure as preferred by the Town and the information provided is sufficient for a thorough review.
- g) 200-46(E)(2)(d)(3) Color board to be submitted showing colors of the new facility. The SPGA grants this waiver because the information provided is sufficient for a thorough review, and because the application states that the facility will be painted to match the existing water tower.
- h) 200-46(E)(2)(d)(6) Landscape plan. The SPGA grants this waiver because the proposed facilities are on an existing structure as preferred by the Town and the information provided in the application is sufficient for a thorough review.
- i) 200-46(E)(2)(d)(7) Balloon or Crane Test. The SPGA grants a waiver of a balloon or crane test at the proposed site required by Section 200-46-E. The plans provided by the carrier contain sufficient information to evaluate the application, without the need for an additional crane test or balloon test, especially given the fact that the antennae will not exceed the height of the existing water tower tank.
- j) 200-46(E)(2)(d)(8) Site lighting. The SPGA grants a waiver of this requirement, since the applicant is only proposing a single motion activated light at the entryway of the equipment shelter.

Mrs. Romeo moved, seconded by Mr. Veno and voted 5-0:

that the Community Planning commission vote to approve the plan entitled, "Verizon Wireless, North Reading 4 MA, Tower Hill Road, North reading, MA 01864, Middlesex county"; dated 5/9/2014; last revised 6/16/2015; drawn by Hudson Design Group LLC. Subject to the terms and conditions of the Certificate of Conditional Approval dated June 23, 2015 as amended this evening.

383 Park Street - Discussion

Ben Osgood of TTI Environmental, Inc. representing the developer Dave Murray stated that the proposal is to construct a 9-lot subdivision on 10.3 acres of land. Frontage will be located on Park Street with a 50' R.O.W. An easement for looping the water main was put in place when an ANR plan was submitted to the planning department that will allow them to meet the dimensional requirements, including the length for looping. Frontage and area was created for the proposed lots to meet the zoning requirements. Test pits were conducted with Board of Health Director, Martin Fair and the soils are good. Drainage: A portion of the drainage will go into the system on Park Street, but catch basins will be placed close to the front of the road to reduce drainage. Retention ponds will be constructed on the new lots at the rear of the property that will reduce the rate of run-off below what is there now. Profile: Starts at Park Street with the 3% maximum slope coming into the subdivision, a vertical curb and then at 4% sloping down and leveling at the cul-de-sac. There is a little bit of a cut in front of the property that they plan to use to fill the rear of the property because they are lower and will balance the fill on the project.

Mr. Hayden asked how high the cut will be in the front and is there a proposal for a retaining wall.

Ben Osgood stated that it will only be cut enough to fit the roadway because the site distance is good with a small retaining wall.

Mr. Hayden stated that they need to have details for the retaining wall. The first lot on the right has a long finger of land. Is this needed for area, for the lot?

Ben Osgood stated that stated that they do need it for area.

Mr. Pearce asked who would maintain it.

Ben Osgood stated that it would be the responsibility of the homeowner.

Mr. Pearce stated that the town has had problems with these long fingers of land because they are not seen and often ignored. He would suggest that a something low maintenance be placed in this area, such as stone or mulch.

Mr. Hayden asked if the proposed retention pond would capture the water run-off in Northeast corner to the abutting property.

Ben Osgood stated that it would not be 100%, but should decrease the run-off.

Mrs. Romeo asked what the calculations are for the site distance running east and west because she has found that on both sides of the street in this area are very difficult to exit.

Ben Osgood stated that he does not have the figures with him, but they would be submitted with the application. He does know that with the posted speed limit is more than sufficient site distance on this road.

Mrs. Romeo stated that posted is one thing, actual is another.

Mr. Veno asked what happens to the water that runs down to the cul-de-sac.

Ben Osgood stated that at that portion of the roadway it slopes back up, and the water will be captured by the catch basins before getting to the end of the cul-de-sac.

George Banos of 2 Gloria Lane asked if the retention pond would be above or below ground. He is also concerned with the buffer and wanted to know if the trees would be removed.

Ben Osgood stated that the retention pond would be above ground and it is always in the best interest of the developer to leave as many of the existing trees as possible. Some trees will need to be removed for the house and septic system, but none of the trees going along the lot line.

Mr. Hayden asked if there was a natural pond located on the property.

An abutter stated that it is located at the corner of Nutter Road and Park Street.

Mr. Pearce stated that two sidewalks are proposed and this will only be more maintenance for the town once the road is accepted.

Mr. Hayden stated that it would be better to build one sidewalk and possibly use the money from the second sidewalk for off-site improvements.

Dave Murray stated that he would be in agreement to this request.

Elaine Regain of 7 Gloria Lane asked where the septic systems would be located. She also stated that there are natural fieldstone walls around the property that are protected.

Ben Osgood stated that the placement of the septic systems has not been decided at this time, it will depend on the quality of the soils, although they do like to put them in the front of the property. They have no intention to remove the fieldstone walls, they are property boundaries.

Michael Marchand of 1 Gloria Lane stated that he has only lived in the town for two years and his property abuts the proposed site. He would like to see the trees that buffer his property be kept. He is also concerned with the placement of the septic system and the swale that will be constructed behind his home because he already gets water.

Ben Osgood stated that the swale will be put in place to capture water and not run uncontrolled onto the abutting properties.

Barbara Celata of 5 Gloria Lane asked when the construction would begin.

Mr. Hayden stated that they will need to file an application with the planning department and will be able to begin construction after the 21 appeal period of the approval, but it could start in the spring of 2016.

Michael Marchand asked if native vegetation would be brought in.

Ben Osgood stated that this is being reviewed and will be considered.

Mr. Bellavance asked what size the homes would be.

Ben Osgood stated that he was not sure at this time, but they prefer two story homes and are better able to handle water run-off than a ranch home.

Elaine Regan of 7 Gloria Lane asked if there were any other homes that the developer has built that they might be able to look at.

Dave Murray stated that he has built many homes in North Reading. (Lisamary Drive, Olde Coach Road, Berridge Way, Palomino Drive, Heritage Way and Northridge)

Daniel Mabor of 3 Gloria Lane asked if there was a lighting plan.

Mr. Pearce stated that once the subdivision plan is approved by the board RMLD would do the light plan, but the lights would only be for the roadway. If any lights were to be put in it would be by the property owner. Lights are much more conservative these days because of light pollution.

Mrs. Romeo stated that she is concerned with the destruction of the existing home and would like to see it renovated. There was an existing home at the corner of Bow Street and Rebecca's Row that the developer decided to renovate and it came out beautiful.

Mr. Veno stated that he is against one sidewalk because of he has had situations on other boards and committees where the property owners ask why they don't have a sidewalk.

Ben Osgood stated there are no plans to tear down the existing home.

North Reading Transportation/230 Main Street – Bond Release

Mr. Hayden asked if as-built plans were submitted and if so, they should be reviewed by the Town Engineer before the bond is released.

Mrs. McKnight stated that they could vote to release the bond contingent on the approval of the Town Engineer.

Mrs. Romeo moved, seconded by Mr. Bellavance and voted 4-0: (Mr. Pearce abstained)

that the Community Planning Commission vote to release the Site Opening Bond and that the amount of \$15,000.00 be released on the provision that Mike Soraghan the Town Engineer approves the As-Built plan.

Planning Administrator's Update**166 Chestnut Street**

Mrs. McKnight stated that she received a plan from Verizon Wireless to change out equipment, but no work is proposed on the ground, so it does not trigger the special permit. She wanted to know if the board had any comments.

Mr. Hayden stated that they need to match the existing colors.

Dogwood Lane

Mrs. McKnight stated that Attorney James Senior has asked if he would be able to attend the next meeting to discuss the possibility to extend the time frame for the Dogwood Lane subdivision. The covenant states that it needs to be completed within two years, but it is not listed in the Conditional Approval. His preference is to extend it to 2019, but would be agreeable to 2017.

Mr. Hayden asked what work was left.

Mrs. McKnight stated that she believes there are two lots left, plus the Rodham Property. The roadway also needs to be completed.

Mr. Hayden stated that they would be able to give until December 2017 or January 2018.

Mr. Pearce stated that it is winter at that point and will not be able to do anything.

Mrs. McKnight stated that current buyers/owners are anxious to see it completed, but this is the danger when purchasing a lot in an unfinished subdivision.

Mr. Pearce stated that when the board gives these extensions it can get risky and the clerk of the Works should be put in place.

Mrs. McKnight stated that the bond is dated 2011, but she did show it to the town engineer and he was okay with it.

Mr. Pearce stated that the board will give the extension based on the town engineer adding the Clerk of the Works.

Hazard Mitigation Plan

Mrs. McKnight stated that the hazard mitigation plan has been on-going. She placed a folder in the dropbox with the plan and correspondence for the board to review.

Adjournment at 10:05PM

Respectfully submitted,



Patricia Romeo, Clerk